

# **Code of Ethics**



## **New Jersey Motor Vehicle Commission**

Dear Fellow MVC employees:

As you know, MVC has been entrusted to implement security and customer service reforms.

In order to maintain the public's trust and confidence in us, it is essential that all MVC employees abide by the highest standards of ethical conduct. While MVC employees are required to follow the specific rules set forth here, it is my hope and expectation that MVC employees will also incorporate into their work generally accepted ethical values, such as honesty, fairness, promise keeping, pursuit of excellence, compassion, and integrity.

As you review the various provisions of this Code of Ethics, I urge you to consider the following general principles of public sector ethics that are important to us all:

1. Do not use a State position to obtain unwarranted privilege for yourself/others.
2. Do not act in any work matter where you have a personal or financial interest or where your objectivity and independence of judgment could be affected.
3. Do not act in any matter where others might reasonably get the impression or suspicion that you are engaging in ethical misconduct.
4. Do not accept gifts, favors, or gratuitous benefits of any kind from persons that may be seeking to influence official actions by virtue of the benefit conferred.
5. Do not use government facilities, services or personnel for a personal benefit or any purpose other than the public interest.
6. Actively and continuously seek to improve systems and procedures so that public service is rendered with the utmost courtesy, efficiency and equity.
7. Assure that government is conducted openly, efficiently, equitably, and honorably in a manner that permits citizens to be informed and hold government officials accountable.
8. Honor and respect the principles and spirit of democracy and set a positive example by scrupulously observing the letter and spirit of laws and rules.
9. Don't engage in official or private conduct unbefitting a public official and likely to undermine public confidence in the integrity or character of government.
10. Safeguard public confidence in the integrity of MVC by being honest, fair, caring, courteous, and respectful in dealing with the public.

Because ethics rules and dilemmas are often difficult to analyze, I urge you to contact Ethics Liaison Officer Steve Robertson at (609) 777-1407 before you do anything that could possibly create an ethics problem or issue. It is better that you seek advice and/or make a disclosure to him before the fact. Again, all MVC officials and employees must do their utmost to maintain the trust and confidence of the public.

Sincerely,  
Sharon A. Harrington  
Chair and Chief Administrator of MVC

## **Special Note Regarding the Commission Members**

The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, is the enabling statute that created MVC and, pursuant to that Act, the MVC replaced the Division of Motor Vehicles and instituted an eight (8) member Commission to consider MVC's current needs and set policy to meet the motor vehicle needs of the future. Section 18 of that Act states that MVC Commission Members "shall be subject to the 'New Jersey Conflicts of Interest Law.' "

Also, Executive Order No. 10 (2002) states that "persons serving in government should have the benefit of specific standards" as provided in a Code of Ethics.

This Code highlights the high ethical standards of the Commission Members (in addition to the full time staff of MVC). In particular, the following New Jersey Conflicts of Interest Law (COIL) provisions are included as appropriate throughout this Code of Ethics:

Unpaid, part-time appointees known as "Special State Officers" such as MVC Commission Members are to adhere to several standards such as not representing any other party but the State at section 16 of COIL, not contracting with the State at section 19 of COIL, not providing insider information after departing state employment at section 17 of COIL, not holding an interest in a casino at section 17.2 of COIL, not soliciting gifts at section 14 of COIL, not receiving compensation from any source in return for doing work of the appointed position at section 24 of COIL, not acting in her/his own behalf to transact business with MVC at section 20 of COIL, not engaging in any activity in substantial conflict with her/his official duties at section 23(e)(1) of COIL, disclosing to the Ethics Commission any state licenses s/he holds at section 23(e)(2) of COIL, not soliciting unwarranted privileges at section 23(e)(3) of COIL, not acting in an official capacity on matters in which s/he may hold a financial share that will impair objectivity at section 23(e)(4) of COIL, not taking employment which might impair objectivity at section 23(e)(5) of COIL, not accepting gifts at section 23(e)(6) of COIL, not acting in a way that violates the public trust at section 23(e)(7) of COIL, and not providing insider information gained by reason of her/his official duties at section 25 of COIL.

# **MOTOR VEHICLE COMMISSION CODE OF ETHICS**

## **Table of Contents**

I	Purpose	1
II	Definitions	1
III	Supersedes	2
IV	Basic Policy and Structure of the Code	2
V	Use of State Property	3
VI	Acceptance of Gifts	3
VII	Conflict of Interest	6
VIII	Misuse of Official Position or Information	10
IX	Internal Employment of Relatives	10
X	Supervisor/Subordinate Ethics Conflicts	12
XI	Outside Employment and Activities	13
XII	Post-employment Restrictions	15
XIII	Special Casino-related Considerations	16
XIV	Political Activity	17
XV	Violations and Sanctions	19
XVI	Reporting Complaints Alleging Violations	20
	Appendix - Guidelines for Attendance at Outside Events/Functions, Acceptance of Honorarium, and Compensation for Published Works	21

## MOTOR VEHICLE COMMISSION CODE OF ETHICS

### I. PURPOSE

To state the Code of Ethics policy for the New Jersey Motor Vehicle Commission (hereinafter referred to as the "**MVC**").

This Code is intended to complement the New Jersey Conflicts of Interest Law (*N.J.S.A. 52:13D-12 et seq.*) and to establish the general standards of conduct necessary for the proper and efficient operation of the MVC. This Code of Ethics, the New Jersey Conflicts of Interest Law and regulations promulgated by the Executive Commission on Ethical Standards at N.J.A.C. 19:61-1.1 et seq., shall apply to all employees of the MVC.

### II. DEFINITIONS

**Chain of Command** - a hierarchical series of superior-subordinate relationships wherein there is authority over the assignment of work responsibilities, salary determination, awarding of overtime, discipline, performance assessment, and/or influence over career progress.

**Code** - shall mean this Code of Ethics.

**Employee** - shall mean both State officer and employee and special officer and employee holding an office or employment with the MVC.

**Ethics Liaison Officer** - shall mean the **Chief Administrator of MVC or designee**.

**Immediate family** - shall mean for purposes of Section XIII, the employee's spouse, child, parent, or sibling residing in the same household.

**Reassignment** - the in-title movement of an employee to a new job function, shift, location, or supervisor within the MVC.

**Relative** - shall mean for purposes of Sections IX and XI of this Code, a spouse, child, parent, grandparent, grandchild, aunt, uncle, first cousin, mother, father, brother, sister, in-law, step-parent, step-child, or step-sibling.

**Special State officer or employee** - means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no compensation is authorized or provided by law, or no compensation other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency.

**State officer or employee** - means any person, other than a special State officer or employee, (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature, or (2) appointed as a New Jersey member to an interstate agency.

**Vendor** - is defined as any general contractor, subcontractor, consultant, person, firm, corporation, or organization engaging in or seeking to do business with the MVC.

**Work Unit** - shall mean for purposes of Section IX of this Code, an operational group of employees who have the same immediate supervisor and together perform duties related to their unit's mission.

All reference in this Code to "special MVC officer or employee" shall be deemed to incorporate the definitions of "special State officer or employee" contained in *N.J.S.A. 52:13D-13*. All references in this Code to "State agency," "person," "interest," "cause," "proceeding," "application or other matter," "member of the immediate family," and other similar terms shall be deemed to incorporate the definitions of those terms contained in *N.J.S.A. 52:13D-13*.

### **III. SUPERSEDES**

This policy supersedes the first MVC Code of Ethics that was adopted at the July 2003 MVC Commission Members meeting.

### **IV. BASIC POLICY AND STRUCTURE OF THE CODE**

The New Jersey Motor Vehicle Commission, as an agency of the State government, exists to serve the public interest. All employees must therefore conduct themselves in the course of their duties so as to hold the respect, trust, and confidence of the public. They must avoid any activity or association which is, or appears to be, a violation of the public interest.

To maintain public trust and confidence, this Code of Ethics is adopted. Its purpose is to inform MVC employees of the standards of conduct and responsibilities that govern them.

This Code of Ethics differentiates among three types of activities that could potentially undermine public trust and confidence in the MVC.

- A. Activities that so clearly constitute a conflict of interest and violation of public trust that they are expressly prohibited. For example, the acceptance of a gift or favor from anyone doing business with the MVC or the solicitation of a bribe.
- B. Activities that may give rise to questions about an employee's integrity. Although the employee may have done no wrong, he or she is under an obligation to report such activities to the Ethics Liaison Officer. For example, the receipt of an offer of a bribe or gift.

- C. Activities that may appear to give rise to a conflict of interest. Employees are required to notify the Ethics Liaison Officer and, in some cases, obtain permission before engaging in such activities. For example, receiving an invitation to an event from someone doing business with the MVC.

**In any instance where an employee is not certain what the standard of conduct should be, the employee should seek the advice of the Ethics Liaison Officer in order to avoid the possibility of violating this Code.**

## **V. USE OF STATE PROPERTY**

An employee shall use the property and funds under his or her official control in strict accordance with prescribed procedures and not for personal gain or benefit.

- A. MVC property, equipment, funds, or other assets shall be used only for MVC business and not for personal use.
- B. MVC employees shall not be directed to type personal communications, make personal phone calls, or run personal errands.

## **VI. ACCEPTANCE OF GIFTS**

**It is the policy of the Motor Vehicle Commission that no employee shall accept any gift or other item of value from any firm, organization, association, or individual doing business with the MVC or those that could reasonably be expected to do business with the MVC.**

**Any gift or other item of value offered by or received from a person, firm, or corporation that a MVC officer or employee has contact with in his or her official capacity must be reported and remitted immediately to the Ethics Liaison Officer who shall then make a determination as to whether or not the gift, favor, employment, offer of employment, or other thing of value can be accepted. The report shall clearly describe the gift, identify the donor, and set forth the circumstances under which the gift was offered.** It is not necessary to notify the Ethics Liaison Officer or designee upon receipt of unsolicited gifts or benefits of a trivial or nominal value, such as complimentary pens or pencils, offered to the general business public through mass mailings. Note, however, that if a gift or benefit of a nominal value does create an impression of a conflict of interest or a violation of a public trust, it cannot be accepted but must be transmitted to the Ethics Liaison Officer for return to the sender.

- A. With respect to the acceptance or solicitation of any gift, favor, service at preferential rates, employment, offer of employment or any other thing of value, all employees are subject to the provisions of *N.J.S.A. 52:13D-24*, which provide as follows:

No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift, honorarium, out-of-State travel or subsistence expense or other thing of value from any source other than the State of New Jersey, for any service, advice, assistance, appearance, speech or other matter related to the officer, employee, or member's official duties, except as authorized in this section.

A State officer or employee, special State officer or employee, or member of the Legislature may, in connection with any service, advice, assistance, appearance, speech or other matter related to the officer, employee, or member's official duties, solicit, receive or agree to receive, whether directly or indirectly, from sources other than the State, the following:

- 1) reasonable fees for published books on matters within the officer, employee, or member's official duties;
- 2) reimbursement or payment of actual and reasonable expenditures for travel or subsistence and allowable entertainment expenses associated with attending an event in New Jersey if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey;
- 3) reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey.

The \$500 per trip limitation shall not apply if the reimbursement or payment is made by (a) a nonprofit organization of which the officer, employee, or member is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State or the Legislature in the case of a member of the Legislature; or (b) a nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services.



A designated State officer as defined in Section II of this Code shall not solicit, receive or agree to receive, whether directly or indirectly, any compensation, salary, honorarium, fee, or other form of income from any source, other than the compensation paid or reimbursed to him or her by the State for the performance of official duties, for any service, advice, assistance, appearance, speech or other matter, except for investment income from stocks, mutual funds, bonds, bank accounts, notes, a beneficial interest in a trust, financial compensation received as a result of prior employment or contractual relationships, and income from the disposition or rental of real property, or any other similar financial instrument and except for reimbursement for travel as authorized in subsections (2) and (3) of paragraph b. of this section. To receive such income, a designated State officer shall first seek review and approval by the Executive Commission on Ethical Standards to ensure that the receipt of such income does not violate the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any applicable code of ethics, and does not undermine the full and diligent performance of the designated State officer's duties.

Except as noted elsewhere, employees are responsible for full payment of the costs of their meals, beverages, lodging, travel and entertainment and may not accept the same from any entity, person, partnership or corporation doing business with the MVC, contemplating such business, or seeking to influence official actions.

B. The acceptance of any gifts, preferential loans, services at preferential rates, discounts, gratuities or anything of monetary value from a person or organization doing business with the MVC or the granting of special treatment or favors to such persons or organizations for the purpose of obtaining personal gain, is a conflict of interest. Under this section, the term person includes employees or agents of organizations doing business with the MVC, contemplating doing business with the MVC or seeking to influence official actions.

This section covers gifts, loans, services, discounts, gratuities or anything of monetary value that are made directly or indirectly to an employee. Made indirectly means made to an employee's relative or organization designated by the employee. Relative refers to the immediate family of an employee or the immediate family of an employee's spouse.

C. Examples of gifts include cash, liquor, food, personal or household goods, use of cars, lodging and other favored treatment. This section also includes a special prohibition, with the limited exception of subsection D below, against the acceptance of beverages or entertainment from persons or firms doing business with the MVC or contemplating doing business with it or seeking to influence official actions.

- D. Any employee who receives an invitation to any business-related function (a conference, ground breaking, ribbon cutting, meal, open house, cocktail party, fund-raiser, holiday party or other social function or appearance involving honorarium, etc.) from or with a firm or person doing business with the MVC or contemplating doing business with the MVC, shall report the invitation to the Ethics Liaison Officer with a copy to his or her supervisor. A determination in consultation with appropriate persons will then be made, and the employee will be advised accordingly.

Detailed information and procedures with regard to employee attendance at functions can be found in the MVC's Guidelines for Attendance at Outside Events/Functions found in the Appendix at the end of this booklet.

#### E. Guidelines Regarding Retirement Gifts

Typically, retirement functions comprise a get-together, with or without a meal, and the presentation of a gift or monetary token to the retiree, to his or her spouse, and/or to his or her dependents(s). In planning such events, the responsible group or individual must choose between two approved alternatives with regard to funding and the value of any and all gifts to be presented.

1. Gifts may be funded by a maximum contribution of \$5 per person, collected from invitees to the retirement function. If this method of funding is used, no maximum value is set for the cost of the gifts, but contributions of more than \$5 per invitee are not permitted.
2. The maximum value of retirement gifts cannot exceed \$1,000. If this method is used, there is no maximum set on individual contributions, but the total value of retirement gifts and/or monetary tokens to the retiree, spouse, and dependent(s) cannot exceed \$1,000. If, instead of presenting gifts and/or monetary tokens to the retiree, spouse, and dependents(s), a decision is made to make a monetary contribution to a qualified organization (under I.R.S. Code 501c(3), no limit is placed on the maximum value of the contribution.

## VII. CONFLICTS OF INTEREST

### A. General

1. A MVC employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity that is in conflict or could appear to be in conflict with the proper discharge of his or her duties.

2. No MVC employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public that he or she may be engaged in conduct violative of his or her trust as a State officer or employee.

## **B. Contracting with the State**

1. The Conflicts of Interest Law prohibits an employee from knowingly undertaking or executing (in whole or in part) any contract, agreement, sale or purchase of the value of \$25 or more that is made, entered into, awarded or granted by any state agency. Note, special State officers and employees are only prohibited from such contracting activities if they have responsibilities in connection with the purchase or acquisition of property or services by the state agency where they are employed or hold an office.

The above prohibition also extends to partners and business associates. An employee is prohibited from executing an agreement of sale with a state agency through any corporation in which he or she owns or has control of more than 1% of the stock. Similarly, an employee is prohibited from using any other person to execute an agreement or sale with a State agency for his or her own use or benefit. (See *N.J.S.A. 52:13D-19*.)

2. The New Jersey Conflicts of Interest Law exempts only three categories of contracts from the general prohibition. Before entering into a contract falling within any of these categories, approval must be obtained from the Executive Commission on Ethical Standards through the Ethics Liaison Officer.

The three categories of contracts are:

- those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding;
- those that may be awarded without public advertising and competitive bidding pursuant to Section 5 of Chapter 48 of the Laws of 1944 (*N.J.S.A. 52:34-10*); and
- any contract of insurance entered into by the Director of the Division of Purchase and Property, Department of the Treasury, pursuant to Section 10 of Article 6 of Chapter 112 of the Laws of 1944 (*N.J.S.A. 52:27B-62*).

3. The Law states that no employee shall act as an officer or agent for a State agency for the transaction of any business with a corporation, company, association, or firm in the pecuniary profits of which he or she has an interest (except that ownership or control of 10% or less of the stock of a corporation shall not be deemed an interest within the meaning of the law).

The codes of ethics of all State agencies also contain a provision to the effect that an employee shall not act in his or her official capacity in any matter wherein he or she has a direct or indirect personal financial interest that might be expected to impair his or her objectivity or independence of judgment.

There is also a rule of common law that no government official or employee may act in any matter in which he or she has a direct or indirect interest. (See *N.J.S.A. 52:13D-23(e)(4)*.)

4. No State officer or employee of the MVC shall represent, appear for, or negotiate on behalf of or agree to represent, appear for, or negotiate on behalf of, whether by himself or herself or by or through any partnership, firm, or corporation in which he or she has an interest or by any partner, officer, or employee of any such partnership, firm, or corporation any person or party other than the State in any negotiations for the acquisition or sale by the State or a State agency of any interest in real or tangible or intangible personal property, or in any proceedings, relative to such acquisition or sale before a condemnation commission or court; provided, however, nothing contained in this section shall be deemed to prohibit any person from representing himself or herself in negotiations or proceedings concerning his or her own interest in real property. (See *N.J.S.A. 52:13D-15*.)

5. The Conflicts of Interest law provides that:

Despite the other provisions of the statute a State officer or employee or a special State officer or employee or his partners or any corporation or firm in which he owns or controls more than 1% of the stock, assets or profits may enter into a rental agreement with a State agency which operates a facility which rents space or provides services to assist small businesses which employ 50 people or less, pursuant to the same terms and conditions as those offered to members of the public generally. (See, *N.J.S.A. 52:13D-19.2*.)

Also note that the Conflicts of Interest law does not alter or affect any other laws regulating public contracts.

MVC employees must, therefore, be mindful that this Code of Ethics and the Conflicts of Interest law contracting provisions are not the only public contracting provisions with which they must comply. (See, *N.J.S.A. 52:13D-19.3*.)

### C.     **Appearances Before the State/MVC**

1. State officers or employees are specifically prohibited from either agreeing to, or in fact representing, appearing for, or negotiating on behalf of any person or party, other than the State, in connection with any cause, proceeding, application, or other matter pending before any State agency other than those listed below. Special State officers or employees are prohibited from the above activities only in connection with any cause, proceeding, application, or other matter pending before the particular office, bureau, board, council, commission, authority, agency, fund, or system in which the special MVC employee or officer holds office or employment. This prohibition extends to any partnership, firm, or corporation in which the State officer or employee or special State officer or employee has an interest or any partner, officer, or employee of any such partnership, firm, or corporation.

As an example of the above, a licensed engineer who works for MVC would be prohibited by law from submitting dam inspection reports, surveys, etc., or otherwise making contacts on behalf of a private land owner (client) with the New Jersey Department of Environmental Protection.

All MVC employees are **not** prohibited from representing a person or party in any of the following instances:

- before a court of record;
- in regard to a claim for workmen's compensation;
  - in a proceeding related to the determination or review of transfer, inheritance or estate taxes;
  - in connection with the filing of corporate or other documents in the office of the Secretary of State;
- before the Division on Civil Rights;
- before the New Jersey State Board of Mediation;
- before the New Jersey Public Employment Relations Commission;
- before the Unsatisfied Claim and Judgment Fund Board solely for the purpose of filing a notice of intention; or

- in any proceeding on behalf of a county, municipality, school district or any authority, agency or commission of any thereof **except where the State is an adversary party and provided that the employee is not holding office or employment in the State agency in which any such proceeding is pending.** (See *N.J.S.A. 52:13D-16(a)*, *N.J.S.A. 52:13D-16(b)*, *N.J.S.A. 52:13D-16.*)

#### **VIII. MISUSE OF OFFICIAL POSITION OR INFORMATION**

- A. No employee shall use or attempt to use his or her official position with the MVC to secure unwarranted privileges or advantages for himself, herself or others.
- B. No employee shall use confidential information (information not available to the public) obtained in his or her work within the MVC to further his or her private interests or the interests of others.

#### **IX. INTERNAL EMPLOYMENT OF RELATIVES**

**It is the policy of the New Jersey Motor Vehicle Commission to base employment decisions on operational needs, job qualifications and other work related criteria which are consistent with the State Conflicts of Interest law, anti-discrimination laws, other laws, and labor relations principles.**

Employees are prohibited from using their State positions to secure an unwarranted privilege or advantage for any relative. Furthermore, MVC employees are prohibited from acting in any MVC employment matter involving a relative, wherein they have a direct or indirect financial interest, or wherein their actions might create the appearance of ethical misconduct.

In furtherance of the MVC's policy to eliminate work place nepotism, guidelines regarding the employment, promotion and/or the reassignment of relatives have been developed. These guidelines are particularly designed to prevent favoritism and unlawful job discrimination, and work place conflict, which can arise whenever an employee has supervisory or other authority over his/her relative.

##### **Further restrictions include:**

- 1) A relative of the Governor shall not be employed in an office or position in the unclassified service of the civil service of the State in the Executive Branch of State Government;
- 2) A relative of the commissioner or head of a principal department in the Executive Branch of State Government shall not be employed in an office or position in the unclassified service of the civil service of the State in the principal department over which the commissioner or head of the principal department exercises authority, supervision, or control;

- 3) A relative of an assistant or deputy commissioner or head of a principal department in the Executive Branch of State Government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the assistant or deputy commissioner or head serves, but shall not be assigned to a position over which the assistant or deputy commissioner or head exercises authority, supervision, or control;
- 4) A relative of a head or assistant head of a division of a principal department in the Executive Branch of State government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the head or assistant head of a division serves, but shall not be assigned to a position over which the head or assistant head exercises authority, supervision, or control;
- 5) A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State shall not be employed in an office or position in that independent authority, board, commission, agency or instrumentality.

As used in this section, "relative" means an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

#### **A. Guidelines**

The MVC will exercise sound business judgment in the placement of related employees in accordance with the following rules:

1. No employee will be permitted to work within the "chain of command" of a "relative."
2. Relatives will be prohibited from working together within the same work unit, as co-workers, whenever it is reasonably believed that because of their family relationship they cannot perform their duties in an independent, objective and conflict free manner.
3. Whenever an employee's marriage, promotion or reassignment creates a conflict or violation of the just noted Guidelines, the employee, relative, or cohabitant, must be reassigned at the earliest possible time.

NOTE: If a reassignment of an employee cannot be made within a reasonable period of time and in an accommodating manner, subsequent to a marriage, promotion or other job move which causes a nepotism/conflict problem, then the Ethics Liaison Officer should be contacted for advice.

## **B. Responsibilities**

- All employees are responsible for expeditiously disclosing to their immediate supervisors any personal employment situation which creates a conflict or appearance of conflict as outlined in this policy. Management is responsible for immediately bringing these matters to the attention of the Ethics Liaison Officer. Failure by employees and managers to make timely disclosures may result in disciplinary action.
- The Ethics Liaison Officer will review the specific situation and determine an appropriate course of action. The MVC will work to fashion a reasonable accommodation that will be consistent with the Code, and which fully considers the employee's rights and interests.
- Management is directly responsible for ensuring that plans of action identified to address specific situations are adhered to.
- The Ethics Liaison Officer is responsible for providing clarification and interpretation of this Code of Ethics section on the Internal Employment of Relatives. All questions or requests for advice on this section should be forwarded to the Ethics Liaison Officer.

## **C. Exceptions**

Due to an extreme circumstance, an exception to this Code section may be granted when the Chief Administrator of MVC makes a written request to the Ethics Liaison Officer prior to making a final determination.

## **X. SUPERVISOR/SUBORDINATE ETHICS CONFLICTS**

Consistent with determinations of the New Jersey Executive Commission on Ethical Standards, non-related employees who share the same household (cohabitants) under circumstances where there is a financial interdependence, shall not work together in a direct supervisor-subordinate relationship. There must be an intermediate supervisory level between the two, and the higher placed employee should have no supervisory or signatory authority regarding personnel matters affecting the subordinate employee.



Further, all employees must disclose any outside employment, business or financial relationship with other MVC employees, particularly subordinates or supervisors in their chain of command. Questions on supervisor/subordinate ethics conflicts should be referred to the Ethics Liaison Officer.

## **XI. OUTSIDE EMPLOYMENT AND ACTIVITIES**

### **A. Employment and Activities Prohibited**

No employee shall accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her objectivity or independence of judgment in the performance of such duties. In addition, the hours of outside employment may not conflict with work hours needed for the discharge of official duties.

No MVC employee shall act in his or her official capacity in any *matter* wherein he or she has a direct or indirect personal financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment. (See *N.J.S.A. 52:13D-23(e)(4.)*)

#### **1. Approval for All Employment**

All employee outside employment, whether compensated or not, must be disclosed in writing on the PR-102 form entitled *Certification by Employee Regarding Outside Employment/Activity*, prior to being undertaken and is subject to MVC approval. Furthermore, under state law all MVC outside employment forms must be forwarded to the New Jersey Executive Commission on Ethical Standards for review.

Service for any other State, county, regional or municipal governmental body, agency, commission, MVC or board whether compensated or not is also considered to be employment. In order to be approved, outside employment must be limited in scope, so as to avoid the potential for having any dealings with entities, individuals, subsidiaries or affiliates who have business dealings with the MVC or who are likely to have business dealings with the MVC. In this regard, business dealings include direct dealings as a contractor or vendor and indirect dealings as a subcontractor, architect, engineer, accountant, attorney or any other role.

It is the policy of the MVC to encourage employee growth through participation in outside professional organizations. Employees participating in such organizations should not, however, utilize state equipment and time for professional organizational activities that are not related to their jobs and not approved by supervision. Furthermore, when participating in professional organizations employees should ensure that there is no conflict of interest or barrier to the fulfillment of their MVC duties and responsibilities.

Outside voluntary activities which do not pose a conflict of interest with MVC employment (e.g., CYO Director or Little League coach) need not be reported.

2. Notification of Relative's Employment

All employees are required to notify MVC management regarding any relative employed by a contractor, consultant, vendor or any other company or firm doing business with the MVC. Such notification shall be provided in writing on form PR-102.

3. Notification of License

An employee licensed by a specific agency of State government to engage in any particular business, profession, trade or occupation shall disclose that information on the PR-102 form which by law must be forwarded to the New Jersey Executive Commission on Ethical Standards for review. Such licenses shall include, but are not limited to, those for accountants, architects, attorneys, electricians, insurance brokers, land surveyors, plumbers, professional engineers, professional planners, real estate agents and brokers, etc.

4. Employee's Circulation of Résumés

Employees of the Motor Vehicle Commission who have direct and substantial contact with any vendor doing business with the MVC must refrain from circulating résumés or in any manner seeking employment with that vendor until such contact ceases. If an employee is solicited for potential employment by a vendor with which he/she has direct and substantial contact, that solicitation must be disclosed immediately to the employee's management and to the Ethics Liaison Officer to avoid violation of the Conflicts of Interest law.

Direct and substantial contact means:

- A. Participation in selecting, negotiating or determining the scope of a contract with a vendor, including change orders.
- B. Responsibility for monitoring and approving the work of a contracted vendor.

Employees are not prohibited from soliciting employment (circulating résumés, engaging in formal discussions involving an offer, etc.) with vendors when they do not have contact as described above. Employees are cautioned, however, that discussions, interviews, and negotiations shall not take place on state time.

If any employee has any question as to the propriety of soliciting or discussing employment with any particular vendor, he/she should contact the Ethics Liaison Officer before proceeding.

## **XII. POST-EMPLOYMENT RESTRICTIONS**

An employee, officer and special officer of the MVC is subject to the provision of the New Jersey Conflicts of Interest Statute (*N.J.S.A. 52:13D-17*), which states:

No State officer or employee or special State officer or employee, subsequent to the termination of his or her office or employment in any State agency, shall represent, appear for or negotiate on behalf of, or provide information not generally available to members of the public or services to, or agree to represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, whether by himself or through any partnership, firm or corporation in which he or she has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State officer or employee or special State officer or employee shall have made any investigation, rendered any ruling, given any opinion or been otherwise substantially and directly involved at any time during the course of his or her office or employment. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 6 months, or both.

As an example, under the above statutory section, a former MVC project manager could not represent, appear for or negotiate for a new employer, e.g., a consultant, before the MVC, on a project he/she managed while employed with the MVC. The former employee could, however, work on a new project that has arisen since he/she left the state, or on a project which he/she did not have direct or substantial involvement while in MVC employ.

Direct and substantial involvement, as stated in this statute, may exclude persons who have been engaged in a cause, issue or project on a routine, non-decision-making basis. Questions concerning possible post-employment conflicts should be addressed to the Ethics Liaison Officer prior to termination of employment.

### **XIII. SPECIAL CASINO-RELATED CONSIDERATIONS**

#### **A. Concurrent Employment Restrictions**

No State officer or employee, nor any person, nor any member of their immediate families, or any partnership, firm or corporation with which any MVC officer or employee is associated or in which he or she has an interest, or any partner, officer, director or employee or person while he or she is associated with such partnership, firm or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of any holder of or applicant for a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter, except that (1) a State officer or employee other than a State officer or employee included in the definition of person, and (2) a member of the immediate family of a State officer or employee, or of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the State officer or employee, and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest on the part of the State officer, employee, or person. (See *N.J.S.A. 52:13D-17.2(b)*.)

#### **B. Post-Employment Casino Restrictions**

No employee of the MVC who is subject to financial disclosure by law or executive order or who has responsibility for matters affecting casino activity, or any member of his or her immediate family, or any partnership, firm or corporation with which such person is associated or in which he or she has an interest, or any partner, officer, director or employee while he or she is associated with such partnership, firm or corporation, shall, within two years next immediately following termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development permitting, licensure or any other matter whatsoever related to casino activity, except that:

(1) a member of the immediate family of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the person and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the person; and

(2) an employee who is terminated as a result of a reduction in the workforce at the agency where employed, other than an employee who held a policy-making management position at any time during the five years prior to termination of employment, may, at any time prior to the end of the two-year period, accept employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the employee. In no case shall the restrictions of this subsection apply to a secretarial or clerical employee. (See *N.J.S.A. 52:13D-17.2(c)(1), (2).*)

### **C. Expiration**

In the event that the Legislature repeals or suspends Section 4 of P.L. 1981 c. 142 (C. 52:13D-17.2), in whole or in part, the companion sections of this code shall, to the same extent, be deemed repealed or suspended and of no effect.

## **XIV. POLITICAL ACTIVITY**

### **DEFINITIONS**

**Elective Office** - shall mean any office that is voted upon at a primary, special or general election, but does not include political party office.

**Employee** - shall mean any person holding an office or employment with the MVC.

**Nonpartisan Election** - shall mean an election where none of the candidates are representing a party any of whose candidates for Presidential elector received votes in the last Presidential election at which Presidential electors were selected.

State Officer or Employee - shall mean for purposes of Hatch Act coverage an individual employed by a State agency whose principal employment is in connection with an activity that is financed in whole or part by loans or grants made by the United States or a Federal agency, but does not include:

1. An individual who exercises no functions in connection with that activity;  
or
2. An individual employed by an educational or research institution, establishment, agency or system that is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic or cultural organization.

**Department of Personnel regulation (N.J.A.C. 4A:10-1.2) requires that:**

An employee shall not directly or indirectly use or seek to use his or her authority or influence of his or her position to control or modify the political action of another person. An employee during the hours of duty shall neither engage in political activity; nor shall he or she at any other time participate in political activities so as to impair usefulness in the position in which he or she is employed. A State employee retains the right to vote as he or she chooses and to express his or her opinions on political subjects and candidates.

**Hatch Act (5 U.S.C. §§1501-1508) Prohibitions**

There are certain constraints on the political activity of State employees covered by the Hatch Act. Under the Hatch Act, Executive branch employees in any State agency whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants:

- may be a candidate for public office in a nonpartisan election.
- may campaign for and hold elective office in political clubs and organizations.
- may actively campaign for candidates for public office in partisan and nonpartisan elections.
- may contribute money to political organizations or attend political fund-raising functions.
- may participate in any activity not specifically prohibited by law or regulation.

- may **not** be a candidate for public office in a partisan election.
- may **not** use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.
- may **not** directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

A violation on the part of an employee may possibly subject such employee to criminal prosecution under the Department of Personnel statutes (N.J.S.A. 11A:10-2) and may be cause for removal or a loss of Federal loans or grants to the MVC (5 U.S.C. §1506).

Questions in this regard may be referred to the Ethics Liaison Officer.

NOTE: Employees who intend to run for partisan elective public office must submit an Outside Employment/Activities (PR-102) Form to supervision and the Ethics Liaison Officer prior to becoming a candidate for such office.

## **XV. VIOLATIONS AND SANCTIONS**

Any MVC employee found guilty by the Executive Commission on Ethical Standards of a violation of any provision of the Conflicts of Interest law shall be fined not less than \$500 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement

Law (*N.J.S.A. 2A:58-1*), and may be suspended from his or her office or employment by order of the Commission for a period not in excess of one year. If the Commission finds that the conduct of the employee constitutes a willful and continuous disregard of the provisions of the Conflicts of Interest law or of a code of ethics promulgated pursuant to the provisions of this law, it may order such person removed from his or her office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period not exceeding five years from the date on which he or she was found guilty by the Commission. These penalties may be in addition to any other punishment provided by law. (See *N.J.S.A. 52:13D-21(i)*.)

In addition to the above, MVC employees who violate this Code of Ethics are subject to disciplinary action by the MVC as detailed in the *Guidelines for Discipline*.

NOTE: Any time there is a violation of the MVC Code of Ethics, and discipline is to be considered, approval must first be obtained from the New Jersey Executive Commission on Ethical Standards. Unionized employees who are the target of an ethics investigation have the right, upon their request, to union representation at any investigatory interview or meeting.

## **XVI. REPORTING COMPLAINTS ALLEGING VIOLATIONS**

Employees wishing to file a complaint regarding an alleged violation should prepare a memorandum/letter describing the incident(s) and forward it to the MVC's Ethics Liaison Officer.

NOTE: Under the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq., it is unlawful for an MVC manager or supervisor to take an adverse employment action against an employee who discloses, objects to, or refuses to participate in certain activities that the employee reasonably believes are either illegal or in violation of a clear public policy.



## **APPENDIX**

### **GUIDELINES FOR ATTENDANCE AT OUTSIDE EVENTS/FUNCTIONS, ACCEPTANCE OF HONORARIUM, AND COMPENSATION FOR PUBLISHED WORKS**

These Guidelines present a comprehensive overview of decisions and policies of the Executive Commission on Ethical Standards concerning outside activities, both compensated and uncompensated. The Commission has addressed outside activities under the application of standards embodied in the New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*: sections 16, representation, appearance or negotiation regarding a proceeding pending before a State agency; 17.2(b), State employee/family member relationships with casino applicants or licensees; 19, contracts with State agencies; 23(e)(1), interest in substantial conflict with official duties; 23(e)(2), licensed or regulated activities; 23(e)(3), unwarranted privilege; 23(e)(5), employment or service reasonably expected to impair objectivity and independence of judgment; 23(e)(7), appearance of impropriety; 24, receipt of thing of value for service related to official duties; 25, information not generally available to the public; and *N.J.A.C. 19:61-6.7(b)*, compensation for published works.

All outside employment/volunteer activities must receive prior approval from the agency Ethics Liaison Officer. The following issues must be examined in determining whether an outside activity can be approved. Does the outside position require representation before a State agency? Does the outside position involve a casino licensee or applicant for a casino license? Does the outside activity involve contracting with a State agency? Is there a significant overlap in the duties and responsibilities of the two positions? Does the State employee's agency have control, supervision, or jurisdiction over the outside entity? Does the outside entity receive grants from or contract with the State employee's agency? Does the outside activity involve a published work? Does the outside interest involve political activity? These Guidelines present summaries of past Commission cases, organized under the questions listed above. The case presentations are solely to provide examples of outside activities that have been addressed by the Commission. Also included are general explanations of the statutory provisions applicable to outside employment/volunteer activities.

**Agency Codes of Ethics.** Pursuant to *N.J.A.C. 19:61-2.2(a)*, all State agencies are required to include in their Codes of Ethics a requirement that all employees annually disclose outside employment and/or business interests. The disclosure procedure is to be formulated by each agency with respect to its particular needs and problems. An agency may find it administratively efficient to exempt disclosure of specific kinds of outside employment; for example, part-time work for businesses not related to the position of employment in the agency. All disclosures must be forwarded to the Commission for review.

A number of agency codes of ethics prohibit certain types of outside employment. For example, attorneys employed by the Department of Law and Public Safety are prohibited from engaging in the outside practice of law.

Outside activities disapproved by a State employee's agency may be appealed to the Commission. Appeals should be directed in writing to the Executive Director, Executive Commission on Ethical Standards, 28 West State Street, P.O. Box 082, Trenton, NJ 08625.

Does the Outside Position Require Representation Before a State Agency? Section 16(a) of the Conflicts Law prohibits a special State officer or employee, or any partnership, firm or corporation in which he has an interest, from representing, appearing for, or negotiating on behalf of, or agreeing to perform any of the aforementioned, on behalf of any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the particular agency in which such special State officer or employee holds office or employment.

Section 16(b) of the Conflicts Law prohibits a State officer or employee, or any partnership, firm or corporation in which he has an interest, from representing, appearing for, or negotiating on behalf of, or agreeing to perform any of the aforementioned, on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency.

"Interest" is defined in section 13(g) of the Conflicts Law as (1) the ownership or control of more than 10% of the profits or assets of a firm, association, partnership, or more than 10% of the stock in a for-profit corporation, other than a professional service corporation or (2) the ownership or control of more than 1% of the stock in any corporation which is the holder of or applicant for a casino license or in any holding or intermediary company with respect thereto. In the case of a professional service corporation, the provisions governing the conduct of individuals are applicable to shareholders, associates or professional employees regardless of the extent or amount of their shareholder interest in such corporation.

Section 16(c) sets forth exceptions to the general prohibitions of sections 16(a) and 16(b). Those exceptions include matters:(1) pending before any court of record in the State, (2) in regard to a workers' compensation claim, (3) in connection with the determination or review of transfer, inheritance or estate taxes, (4) in connection with filing of corporate or other documents in the Office of the Secretary of State, (5) before the Division on Civil Rights, (6) before the State Board of Mediation, (7) before the Public Employment Relations Commission, (8) before the Unsatisfied Claim and Judgment Fund Board, (9) before any State agency on behalf of a county, municipality or school district or any authority, agency or commission thereof except where the State is an adverse party, and

provided the State employee does not hold office or employment in the State agency where the matter is pending.

**Engineers.** *In Case No. 6-93, the Commission was asked to consider the extent of the section 16(b) prohibition in the case of a Department of Transportation Project Engineer. The Project Engineer requested an opinion as to whether his secondary employment performing dam inspections for private land owners and completing reports to be submitted to the Department of Environmental Protection and Energy ("DEPE") constituted representational activity prohibited by section 16(b). The Commission determined that the preparation of the dam inspection reports, attendance at meetings at the DEPE, telephone conversations with DEPE employees regarding the reports and the submission of correspondence to DEPE on behalf of clients constituted representational activity prohibited by section 16(b) of the Conflicts Law. The Commission also determined that submission of the reports by the third-party clients would not mitigate the violation.*

*In several cases since 1993, the Commission has found that State employees who sign documents, make telephone calls or submit correspondence in connection with matters pending before a State agency are in violation of section 16.*

**Tax Preparers.** *The Commission has addressed the issue of whether a State employee's outside employment preparing State income tax returns is violative of section 16(b) of the Conflicts Law on a number of occasions (Cases No. 619-77, 830-79, 828-79, 908-80). In these cases, the Commission permitted the State employees to continue their outside employment as tax preparers, but advised them that they had an obligation to inform clients that in the event of a dispute, the State employees could not appear before the Division of Taxation or any other State agency. In 1993, the Commission revisited the issue, determined that the preparer's signature on the State tax return does not constitute representational activity, and confirmed its earlier rulings.*

**Attorneys.** *In Case No. 48-89, a Member of the Statewide Health Coordinating Council ("SHCC") requested advice from the Commission as to the applicability of Section 16(a) of the Conflicts Law to her situation. The Member secured employment in the health care department of a New Jersey law firm and asked what effect her employment with the firm would have on the firm and its clients. The firm, a partnership, represented providers of healthcare goods and services before the Department of Health, the SHCC, and other related public bodies. The Member's status with the firm was that of employee; she had no interest in the firm as defined in section 13(g) of the Conflicts Law.*

*The Commission advised the Member that section 16(a) prohibited her from representing, appearing for, or negotiating on behalf of any party other than the State in connection with any matter pending before the SHCC. This prohibition did not extend to the law firm because the Member had no interest in the firm.*

**Campaign Treasurer.** *In Case No. 29-97, the Commission determined that, under the operation of section 16(b) of the Conflicts Law, State employees are prohibited from acting as campaign treasurers because campaign reports signed by them must be submitted to the Election Law Enforcement Commission ("ELEC"), and, in the event of a complaint to ELEC, a State employee would be required to appear in person or respond in writing to ELEC's inquiry.*

### **Does the Outside Position Involve a Casino Licensee or Applicant for a Casino License?**

**State Officer or Employee.** A State officer or employee, other than a State officer or employee included in the section 17.2(a) definition of "person," may hold employment with the holder of or applicant for a casino license only if the Commission grants a waiver. A waiver of the prohibition can be granted if, in the Commission's judgment, such employment will not interfere with the responsibilities of the State officer or employee and will not create a conflict of interest or reasonable risk of the public perception of a conflict of interest. Waivers may be sought by contacting the Commission.

**Family Members.** Members of the immediate family of a State officer or employee, or of a person, may also hold employment with the holder of or applicant for a casino license by obtaining a waiver from the Commission. An immediate family member is defined as a spouse, child, parent or sibling residing in the same household.

### **Does the Outside Activity Involve Contracting With a State Agency?**

Section 19(a) of the Conflicts Law prohibits a State officer or employee or from entering into a contract, valued at \$25 or more, with any State agency. A special State officer or employee having any duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency is restricted from contracting with his/her agency. This prohibition also extends to partners or any corporation which the State officer or employee or special State officer or employee controls or in which he owns or controls more than 1% of the stock.

Section 19 exempts only three categories of contracts from this general prohibition: (1) contracts made after public notice and competitive bidding; (2) contracts that may be awarded without public advertising and competitive bidding pursuant to N.J.S.A. 52:34-10 or similar provisions; and (3) contracts of insurance entered into by the Director of the Division of Purchase and Property, Department of the Treasury, pursuant to N.J.S.A. 52:27(b)-62.

State employees must receive the approval of the Commission prior to contracting under any of the section 19(b) exceptions. The Commission has approved many

requests over the years by State employees to bid on contracts that are subject to public notice and competitive bidding. Such requests are generally approved if the contract in question is not with the State employee's own agency. The Commission has relied on section 23(e)(7), the appearance section of the statute, in limiting a State employee's participation in the contracting process when the contract is with his/her own agency.

The Commission has also granted approval for contracts that may be awarded without public advertising and competitive bidding pursuant to *N.J.S.A. 52:34-10*, where the State employee is the sole source of supply for a particular good or service. *N.J.S.A. 52:34-10* also exempts purchases from the federal or any State government or any agency or political subdivision thereof; public exigency; contracts where more favorable terms can be obtained from a primary source of supply; seasonal articles or wearing apparel; where commodities traded on a national commodity exchange are to be purchased and fluctuations of the market require immediate action; or the equipment to be purchased is of a technical nature and procurement without advertising is necessary in order to assure standardization of equipment and interchangeability of parts.

**Licensed or Regulated Activities.** Pursuant to section 23(e)(2) of the Conflicts Law, all occupational, trade, business, or professional licenses issued by a State agency must be reported to the Commission. Such licenses include, but are not limited to, attorney, physician, nurse, pharmacist, engineer, real estate, insurance, private detective, and teacher. If the license is inactive, please so note. As is the case with any secondary employment activity, a State employee must receive the prior approval of the agency Ethics Liaison Officer prior to any outside use of a professional license.

**Is There a Significant Overlap in the Duties and Responsibilities of the Two Positions?** *In Case No. 40-91, the Commission considered an appeal by the Director of Social Services, Office of Public Guardian ("OPG"), Department of Community Affairs ("DCA"), that her proposed pursuit of a private practice as an "Eldercare Consultant" was incompatible with her State position of Director of Social Services, OPG. The DCA Ethics Committee denied the secondary employment based on the fact that the two positions dealt with the same general area, the duties and responsibilities of the two positions were similar, and the possibility existed that there were individuals, organizations, and entities that the DCA employee might deal with in both positions. The Commission confirmed the ruling of the DCA Ethics Committee. The Commission reviewed the situation under sections 16(b), 23(e)(3), (5) and (7) of the Conflicts Law.*

**Does the State Employee's Agency Have Control, Supervision, or Jurisdiction Over the Outside Employer?** In numerous cases, the Commission has determined that State employees cannot engage in secondary employment

when their activities are subject to regulation or inspection by the agency for which they work.

**Does the Outside Entity Receive Grants from or Contract with the State Employee's Agency?** In July 2000, in Case No. 20-00, the Commission determined that, in the absence of enabling legislation, code of ethics or other applicable guidelines, regulations, or policies that prohibit such activity, that all outside employment situations involving grant or contractual relationships take into account the following factors, in addition to the other factors set forth in these Guidelines, in determining whether approval may be granted.

- Whether the position in question was created as a result of the State grant or contract.
- Whether the State employee is in a policymaking or decision making position.
- Whether the State employee had any involvement in the drafting or review of the RFP, the award of the grant, negotiation of the contract, or has oversight responsibilities in connection with the grant or contract.
- Whether the State employee, in his/her official capacity, has authority to refer clients to the outside entity.
- Whether the outside position is in the same geographic area as the employee's State position.
- Whether the State employee has had or can be expected to have any official interaction with the grant recipient or contractor in his/her official capacity.

**Published Works.** Under N.J.A.C. 19:61-6.7(b), section 24 of the Conflicts Law, and Commission precedent, a State employee may accept compensation for published works under the following conditions.

- There is no prohibition governing such activity in the Department's enabling legislation or Code of Ethics.
- The State employee must obtain prior approval from his/her Department head.
- The published work must not use or disclose information not generally available to the public.
- The State employee must not use State time or resources in connection with the published work
- The State employee must not use his/her official title in connection with publication or promotion of the published work. •
- The State employee must indicate that his/her views do not represent those of the State.

- The State employee cannot promote, advertise or solicit sales of the published work to co-workers or individuals with whom he/she has official dealings.
- The State employee may not contract to sell the published work to the State except in compliance with section 19 of the Conflicts Law. .
- The published work must not have been prepared as part of the State employee's official duties.

In addition, under the current rule, the receipt of compensation from an "interested party" is not prohibited, but is a factor to be considered in deciding whether to grant approval.

**Political Activity.** The Commission permits involvement in partisan political activities provided that there is no provision in the agency code of ethics prohibiting such activities. (Election Law Enforcement Commission, Executive Commission on Ethical Standards and several other agency codes have specific provisions prohibiting such activities.) State employees, however, may not use State time or State resources in pursuit of such activities and must notify their Departmental Ethics Liaison Officer. The Department of Personnel has issued regulations that address the political activities of State employees. These regulations, which reference the Federal Hatch Act, are not administered or enforced by the Commission.

**General Caveats.** The Commission generally provides the following advice to individuals with approved outside activities. State time cannot be used for outside activities. State resources, including but not limited to telephones, facsimile machines, e-mail, copy machines, mail service and office supplies, cannot be used for outside activities. Coworkers and/or individuals with whom the State employee comes in contact in his/her official capacity cannot be solicited as clients for outside activities, including but not limited to real estate services, cosmetic sales, consulting services, and legal services. State employees are also prohibited from referring clients to any firm with which they are associated.